IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 3052 of 2000

Between:

Puppala Venkateswara Rao S/o. Subba Rao, Hindu
R/o. D.No. 3/143, Varigudem, Machilipatnam, Krishna District.

PETITIONER

AND

1 The Assistant Commissioner of Labour,
Eluru, West Godavari District.
2 The Labour Officer, Machilipatnam.
3 Goriparthi Narsimharaju Yadav, S/o. Venkata Subbaiah,
Sri RamaKrishna Theatre, Machilipatnam,
Krishna District.

RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or Direction particularly in the nature of Writ of Certiorari to call for records in A.P.S & E Appeal No. 4/98 on the file of the 1st respondent and quash the same as being highly arbitrary, unjust and is opposed to the principle of natural justice and also contrary to the provisions of the A.P. Shops and Establishment Act, 1988 and wholly without jurisdiction and pass such other or orders as this Hon'ble Court may deem fit and proper in the interest of justice.

Counsel for the Petitioner : MR. P.RAJASEKHAR

Counsel for the Respondent Nos. 1 and 2 : GP FOR LABOUR

Counsel for the respondent No.3: MR. C. SREENIVASA BABA

The Court made the following :

ORDER:

This writ petition is filed by the employee being aggrieved by the order passed by the 1st respondent in A.P.S. & E Appeal No.4 of 1998 dated 15-07-1999.

According to the petitioner, he was appointed as a booking clerk in the 3rd respondent-Sri Ramakrishna Theatre with effect from 09-05-1975 and he had put in fairly a good track of service record. While so, he proceeded on medical leave on 10-10-1994 since he was attacked by jaundice. After recovery, he reported for duty on 01-11-1994, however, the 3rd respondent refused to permit him to join duty. Thereafter, he did not take to any legal recourse but claimed of the benefits for the service rendered by him from 09-05-1975 to 10-10-1994. A conciliation meeting had taken place on 11-04-1995. In the said meeting, the 3rd respondent agreed to pay certain service benefits but since he failed to do so, the petitioner had to approach the primary authority under Shops and Establishments Act and filed A.P.S.E. 1 of 1996 under section 50 of the Act. The primary authority by its order dated 04-05-1998 directed the 3rd respondent herein to pay Rs.91,587/- on various counts which is mentioned as under:

"The petitioner is entitled for the following:

1. Service Compensastion: Rs.

   1-12-75 to 10-10-94 19 years 20,083-00

   2. 1-10-94 to 10-10-94 salary for 10 days 685-00

   3. Bonus for 6 months for the year 1994 1,057-00

   4. Salary for the period from July, 95 to

   March, 98. 69,763-00

   Total : 91,587-00

Aggrieved by the same, the 3rd respondent filed an appeal in A.P.S & E No.4 of 1998 before the Assistant Commissioner of Labour, West Godavari Eluru. The authority after going through the various issues found that the petitioner is not

entitled for the terminal compensation for termination of services and also salary for the period from 01-10-1994 to 10-10-1994 and as such, allowed the benefits only on the following counts :

"1) Service compensation for the period from Rs.

the respondent/appellant rendered service 23,173-00

i.e., from 1-12-75 to 10-10-1994

(19 years)

2) Compensation for delay in paying

service compensation. 10-00

3. Bonus (at 8.33%) minimum

a) for the years 1992 1,810-00

b) for the year 1993 1,983-00

c) for the year 1994 (upto March,94) 2,114-00

d) from April, 94 to October, 94. 1,057-00

4. Salary for the duty period from 1-10-1994 to

10-10-1994 with 10 times compensation 8,943-00

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39,090-00

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From the above, it is seen that since the petitioner has not questioned his termination from service with effect from 01-11-1994 stating the same is arbitrary and illegal, he is not entitled for the benefits etc., or he is entitled for the back wages from 01-11-1994 till 15-7-1999. Therefore, the appellate court rightly fixed the amount on various accounts totaling to Rs.39,090-00ps. I am of the opinion that the appellate Court has not committed any error requiring interference of this Court under Article 226 of the Constitution of India. The writ petition is devoid of merits and is therefore, liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

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Justice C.V.RAMULU

21-07-2005

Dvs

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Copies to:

1 The Assistant Commissioner of Labour,
Eluru, West Godavari District.
2 The Labour Officer, Machilipatnam.

3. Two CCs to the GP for Labour, High Court Buildings, Hyderabad.(OUT)
4. Two CD copies.

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HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO : 3052 of 2000

21st July, 2005